



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA985

Incidental Taking of Marine Mammals; Taking of Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of letters of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that NMFS has issued one-year Letters of Authorization (LOA) to take marine mammals incidental to the explosive removal of offshore oil and gas structures (EROS) in the Gulf of Mexico.

DATES: These authorizations are effective from February 27, 2012 through February 26, 2013.

ADDRESSES: The application and LOAs are available for review by writing to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3235 or by telephoning the contact listed here (see FOR FURTHER INFORMATION CONTACT), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison,

Office of Protected Resources, NMFS, 301-427-8401.

SUPPLEMENTARY INFORMATION:

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 et seq.) directs the Secretary of Commerce (who has delegated the authority to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term “take” means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill any marine mammal.

Authorization for incidental taking, in the form of annual LOAs, may be granted by NMFS for periods up to five years if NMFS finds, after notice and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). In addition, NMFS must prescribe regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat (i.e., mitigation), and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating rounds, and areas of similar significance. The regulations also must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to EROS were published on June 19, 2008 (73 FR 34875), and remain in effect through July 19, 2013. For detailed information on this action, please refer to that Federal Register notice. The species that applicants may take in small numbers during EROS activities are bottlenose

dolphins (Tursiops truncatus), Atlantic spotted dolphins (Stenella frontalis), pantropical spotted dolphins (Stenella attenuata), Clymene dolphins (Stenella clymene), striped dolphins (Stenella coeruleoalba), spinner dolphins (Stenella longirostris), rough-toothed dolphins (Steno bredanensis), Risso's dolphins (Grampus griseus), melon-headed whales (Peponocephala electra), short-finned pilot whales (Globicephala macrorhynchus), and sperm whales (Physeter macrocephalus). NMFS received requests for LOAs from Energy Resource Technology GOM, Inc. (ERT) and Demex International, Inc. (Demex) for activities covered by EROS regulations.

#### Reporting

NMFS Galveston Laboratory's Platform Removal Observer Program (PROP) has provided reports for ERT removal of offshore structures during 2011. Demex has not used their LOA for any operations to date. NMFS PROP observers and non-NMFS observers reported the following during ERT's EROS operations in 2011:

Company	Structure	Dates	Marine Mammals Sighted (individuals)	Biological Impacts Observed to Marine Mammals
ERT	Vermillion Area, Block 100, Platform C	April 10 to 20, 2011	Spotted dolphins (14)	None
ERT	Matagorda Island Area, Block 604, Platforms #1 and #14	May 3 to 7, 2011	Bottlenose dolphins (15), Spotted dolphins (23), and Unidentified dolphins (1)	None
ERT	Matagorda Island Area, Block 604, Well #3	May 4 to 7, 2011	Bottlenose dolphins (25)	None
ERT	Brazos Area, Block 436, Platform B	May 16 to 31, 2011	Bottlenose dolphins (97) and Spotted dolphins (5)	None
ERT	Vermilion Area, Block 83, Platform A	May 30 to June 2, 2011	None	None
ERT	West Cameron Area, Block 398, Platform B	May 31 to June 10, 2011	Bottlenose dolphins (25) and Spotted dolphins (12)	None
ERT	Vermillion Area, Block 61, Platform B	June 3 to 7, 2011	None	None
ERT	West Cameron Area, Block 417, Caisson A	June 8 to 9, 2011	None	None
ERT	Brazos Area, Block 453, Platform A	June 14 to 20 and June 27 to July 3, 2011	Bottlenose dolphins (87)	None
ERT	Matagorda Island Area, Block 604, Platform A	July 4 to 8 and July 10 to 12, 2011	Bottlenose dolphins (36)	None
ERT	South Marsh Island Area, Block 107, Platform B	July 23 and August 4 to 8, 2011	None	None

Pursuant to these regulations, NMFS has issued an LOA to ERT and Demex. Issuance of the LOAs is based on a finding made in the preamble to the final rule that the total taking by these activities (with monitoring, mitigation, and reporting measures) will result in no more than a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on subsistence uses. NMFS will review reports to ensure that the applicants are in compliance with meeting the requirements contained in the implementing regulations and LOA, including monitoring, mitigation, and reporting requirements.

Dated: February 16, 2012

---

James H. Lecky,  
Director,  
Office of Protected Resources,  
National Marine Fisheries Service.

[FR Doc. 2012-4117 Filed 02/21/2012 at 8:45 am; Publication Date: 02/22/2012]